

## CHAPTER IX

# CONTRACT MANAGEMENT

This chapter will cover the period of time from the signing of contracts to the contract completion. Contract activities covered will include housing inspection, risk assessment, housing rehabilitation, and lead-based paint abatement.

### **GENERAL CONSIDERATIONS**

The primary reasoning behind proper contract execution is the clarification and the protection of the rights of the stakeholders in each project. The contract serves as the base document that describes the specific responsibilities of everyone performing a function in the completion of the rehabilitation activity. The description of the terms within the contract range from the specifications for construction to the timeliness of payments. The contract embodies and describes the interest of all parties and should be regarded in that manner.

**Seek Legal Review:** Many cities and counties employ the services of an attorney to write and review all contractual obligations. The Certificate of Owners Attorney may be required by individual grantee ordinance, resolution, or policy. DED cannot and will not provide legal advice to a community, but may provide, upon request, examples of “standard” contracts and contract language that may be used in certain situations. The State of Missouri hereby assumes no responsibility for the legality or content of the documents that are presented in this manual and they are **only samples** for use by CDBG grantees. The final decision and responsibility, of the terms of the contract, however, lies with the **grantee**.

**Contract Content:** The CDBG program does have both contract documents and specific language that are a standard part of every contract executed involving CDBG dollars. Please also note that the content is the requirement, the format is not. Many lead professionals may have contract language in different formats that protect their interests. It is recommended that you conduct a legal review of such contracts in these cases, however, they may be found to be superior to what is presented here. The risk assessment profession is relatively new, therefore, the state of contract documents for risk assessors is only now beginning to be developed. The forms provided by CDBG are samples only and are meant to be a guide. Any document that is signed by the grantee and has legal implications and consequences; Therefore, prior to signing; it should be carefully reviewed. For the content of administrative and public facilities contracts, please refer to the contract management chapter of the general administrative manual.

Federal Laws that are required to be included in CDBG contracts include:

- Public Law 103-355
- Section 3 of the Housing and Urban Development Act of 1968
- Section 109, Title I of the Housing Act of 1974

- Title VI of the Civil Rights Act of 1964
- Conflict of interest policies
- Access to Records
- Executive Order 11246, as amended, Equal Employment Opportunity, if the contract exceeds \$10,000.
- Section 504 of the Rehabilitation Act of 1973 (Handicapped Accessibility in all Federally assisted projects);
- Section 503 of the Rehabilitation Act of 1973 (Handicapped Employment)
- Age Discrimination Act in Employment Act of 1967
- Department of Labor; Compliance Responsibilities for Equal Employment Opportunity, Federal Register, October 29, 1978;
- Department of Labor: Goals for Minority Participation in the Construction Industry, Federal Register, October 3, 1988;
- The Lead-Based paint Hazard Reduction Act of 1992 (Title X)
- OSHA regulations governing Lead-Based paint at 29 CFR 1926.62 and other OSHA regulations pertaining to housing rehabilitation and demolition activities
- EPA regulation at 40 CFR Part 61 governing Asbestos
- The Missouri Air Conservation law Rsmo.643, sections 225 through 250
- Missouri regulation 10 CFR 10.6.080, 10 CFR 6.240, 10 CFR 6.250
- Missouri Revised Statutes at 701.300 – 701.338 governing the licensing of lead professionals.
- HUD regulations at 24 CFR Part 35 governing Lead-Based Paint in Federally Assisted Housing
- Missouri State Work Practices Standards Governing Licensed Lead Professionals at 19 CSR 30-70.
- Executive Order 11063, as amended

To determine which documents are required in which contracts, it is helpful to determine the type of work (professional vs. construction, demolition or rehabilitation, lead paint vs. non lead-paint). The type of procurement method used also comes into play. More detail concerning these decisions will appear later in this Chapter for each type of activity.

### **Common Rules Regarding Contracting (with CDBG monies)**

- 1) All services, professional or construction, paid in whole or part with CDBG funds, require execution of a formal contract.
- 2) The use of CDBG dollars, regardless of the amount, for payment of any service under contract in the grant, initiates the contracting requirements described in this manual. The total amount of the contract will indicate the proper documentation to be included in the contract.
- 3) **All contracts** should contain a clear, concise, and detailed description of the scope of work, total cost, duration of the contract (completion deadline), compliance requirements, reporting responsibilities, risk management provisions, and enforcement clauses. Contracts may also contain provisions related to termination of the contract, change orders, roles and responsibilities, assignment, confidentiality, copyright, local governmental requirements, and interest of parties.
- 4) All contracts must include the following civil rights provisions:
  - a) Section 109, Title I of the Housing Act of 1974
  - b) Title VI of the Civil Rights Act of 1964
  - c) Section 504 of the Rehabilitation Act of 1973 (Handicapped Accessibility in all Federally assisted projects);
  - d) Section 503 of the Rehabilitation Act of 1973 (Handicapped Employment) Age Discrimination Act in Employment Act of 1967
  - e) Executive Order 11063, as amended
  - f) Title VIII of the Civil Rights Act of 1968 as amended.
- 5) All contracts that exceed \$10,000, both professional services and construction, shall include the following:
  - a) Executive Order 11246 regarding discrimination in employment
  - b) Affirmative Action Provisions
- 6) All contracts should reflect provisions that describe the administrative, contractual, or legal remedies when contractors violate contract terms and provide for appropriate damages.
- 7) All contract fees shall be based upon a unit price or a cost-plus-fixed-fee. Cost plus a percentage of cost and percentage of construction cost methods are prohibited.
- 8) If, during the life or duration of any formal contract, the parties agree to a change in the scope, duration, cost, or any of the terms of the contract, a formal amendment must be executed. In order for this amendment to be valid and recognized by CDBG, it must be in writing, signed and attested by all parties, and attached to the original contract documents.

## **HOUSING INSPECTION CONTRACT**

Exhibit 45 contains an example of a housing inspection contract. Note that most housing inspection contracts provide for payment by house, since the CDBG program usually funds the program by house. The contract should contain a not-to-exceed clause that caps the amount of the contract at the amount of funds the grantee has available for this purpose. In most cases, the maximum amount of the contract will be over \$10,000, therefore, equal opportunity provisions for contracts over \$10,000 are required. Exhibit 46 provides for an example of equal opportunity provisions that apply to professional service contracts. In addition to these equal opportunity provisions, the inspection contract should contain provisions that require compliance with the following requirements:

- The Lead-Based paint Hazard Reduction Act of 1992 (Title X)
- OSHA regulations governing Lead-Based paint at 29 CFR 1926.62 and other OSHA regulations pertaining to housing rehabilitation and demolition activities
- EPA regulation at 40 CFR Part 61 governing Asbestos
- The Missouri Air Conservation law Rsmo.643, sections 225 through 250
- Missouri regulation 10 CFR 10.6.080, 10 CFR 6.240, 10 CFR 6.250
- Missouri Revised Statutes at 701.300 – 701.338 governing the licensing of lead professionals.
- HUD regulations at 24 CFR Part 35 governing Lead-Based Paint in Federally Assisted Housing
- Missouri State Work Practices Standards Governing Licensed Lead Professionals at 19 CSR 30-70.

Grantees must include enforcement provisions in their inspection contracts. These provisions must include a termination clause and a damage clause. Grantees cannot make a final payment for inspection services until the rehabilitation of the house has been successfully completed. The inspection contract should also require an inspector to repay fees on any house where major deficiencies are found that resulted from improper inspections or inspections that were not completed in accordance with the inspector's contract. The amount of fees to be returned cannot be more than the damage that was caused by the improper inspection.

## **LEAD-BASED PAINT RISK ASSESSOR CONTRACT**

Exhibit 47 contains a sample risk assessor contract. In many cases, risk assessors may have their own contracts. These contracts may be acceptable provided they have the required provisions, including a scope of work, time of performance, contract amount, equal opportunity provisions (as indicated in Exhibit 46), and other provisions as discussed previously in this Chapter. Since different houses may be treated differently regarding lead activities, it is suggested that all payments be made for specific activities. These activities may include the following: full risk

assessment, partial inspection, full inspection, lead hazard screen, and clearance testing. The only activity that is not required is a full inspection. **The following are best practices recommended for payment for the above listed activities:**

- ★ ***Risk Assessment Best Practice:*** There are many methods of conducting a risk assessment and still meet the required work practice standards. The method used will depend on the presence of an XRF machine and the accuracy of the machine. Those who have the machine will be able to avoid higher lab costs when testing paint surfaces. Those with more accurate machines will be able to avoid sending a large number of samples to the lab to confirm XRF results. Some risk assessors believe it is necessary to do a full inspection as part of a risk assessment to avoid return trips, while others do not. The types of reports submitted and their sophistication may also differ. The bottom line is, the cost of a risk assessment should be charged as a lump sum amount cost per unit to ensure cost efficiency. Many assessors will add a cost per test. Also, the number of tests that they will take will vary widely between different risk assessors. Grantees should not pay a cost per test for a risk assessment, rather, the grantee should pay for the final product, a risk assessment report and clearance that meets State and federal requirements.
- ★ ***Partial Inspection Best Practice:*** Every pre-1978 house where painted surfaces will be disturbed will need to have each disturbed surface tested. Since the number of surfaces disturbed will vary widely from house to house, grantees should not pay a cost per test conducted. Since the number of surfaces disturbed is a known amount, unit pricing is more cost effective and more appropriate.
- ★ ***Full Lead Inspection Best Practice:*** This cost should not be paid separately, except under the following circumstances:
  - The house has a child with an elevated blood level;
  - The owner is purchasing the house or a new renter is moving into the house and wants to know those surfaces that contain lead as allowed under the disclosure rule;
- ★ ***Lead Hazard Screen Best Practice:*** Grantees will not see this occur very often due to: (1) the stringent lead standards that must be met, and (2) the possibility of a house failing a screen and needing a full risk assessment. The cost of conducting this activity should be set as a lump sum at a cost much lower than the risk assessment.
- ★ ***Clearance Testing Best Practice:*** Most of the cost of clearance testing in rural areas will involve traveling too and from a site where lead hazard reduction activities have occurred. A lead hazard reduction contractor must clean a house thoroughly before clearance tests can be taken. The dust lead levels that must be passed are low enough that many contractors may not pass the clearance test the first time around and a second trip could become necessary. This is a normal occurrence and should be provided for as a cost. A risk assessor that follows DOH protocol will not be at fault if a second trip must be scheduled. However, CDBG funds should not pay for numerous trips. If more than two trips are needed, grantees should inquire as to the reason why these trips are needed and who is at fault for the excessive costs. These costs may not be limited to the actual

clearance testing costs, but may also involve the cost of increased relocation cost for an occupant that cannot reoccupy the dwelling until the test is passed. Reasons that the test may fail include:

- The contractor did not follow DHSS protocol in conducting clearance activities, resulting in the contractor recontamination of the site before the testing occurred, or the contractor did not clean adequately.
- The occupant reoccupied the house prematurely and contaminated the site before clearance testing was complete. Simply tracking dust in from a yard may contaminate a floor.
- The risk assessor allowed an excessive period of time to pass in between the time the contractor cleaned the dwelling and the dust samples were taken. DHSS protocol requires that dust samples be taken a minimum of one hour after cleanup is completed.

However, if a risk assessor waits for a number of days to take the test, the possibility for recontamination is high. We recommend that grantees require the risk assessor to be on-site within a day after cleanup is completed. If the site becomes contaminated, then the contractor would have to return to re-clean the area, the owner could not return, and an additional clearance test would be necessary. Coordination of activities is extremely important during this phase of the project.

Since licensed risk assessors are strictly regulated by DHSS, reference to the same contract provisions specified above for housing inspectors should be all that is necessary as far as conduct on the job site. The main performance criteria to be included in contracts are the provision of the following documents to necessary parties:

- Partial inspection reports for all pre-1978 houses
- A risk assessment report or lead hazard screen report as is required by DHSS
- A clearance testing report allowing reoccupancy of hazard control areas
- Provision of contract specifications to be used in lead hazard control activities
- The risk assessor should be present at pre-construction conference in all pre-1978 houses where lead reduction activities are specified incidental to rehab activities

## **HOUSING REHABILITATION CONTRACTS**

### **1) Types of Contracts**

Exhibits 16, 17, 18, 19, and 20 are examples of contracts for housing rehabilitation activities. The choice of the structure of the contract to use depends upon the degree of control the city desires over the contractor. However, the more control grantee exercises over the contractor, the greater the risk to the grantee should that contractor not perform.

Exhibits 16 and 17 include a loan agreement between the grantee and the contractor. Although two agreements are required, the owner takes responsibility for the contractor and the city never contracts directly with the contractor. This eliminates some of the risk associated with the project for the grantee and allows the homeowner to take their grievances directly to the contractor. However, use of the agreement between the homeowner and contractor does not relieve the city from assuring that CDBG funds are expended on eligible activities. The first recourse is against the owner. Situations where the two party agreements are typically used are (1) in the case of rental property, or (2) where the homeowner chooses the contractor, or (3) where the homeowner has the ability to deal with contractor problems.

Exhibit 18 is an example of a three party agreement between the contractor, city, and homeowner. The three party contract is useful for situations in which the homeowners lack the ability to deal with the contractor directly and assure the work is properly completed. Grantees choosing the three party agreement may wish to have more control over the contractor and confront the contractor directly concerning problems with the workmanship and other issues, with the legal backing of a contract.

Exhibit 19 is a self-help agreement where the owner is the contractor. The city should not approve the self-help project unless the owner is qualified to complete the project in the same manner as was described for other contractors in the previous chapter.

## **2) Provisions in Contracts**

Housing rehabilitation contracts should contain the same EO provisions as all other contracts. Homeowners must comply with the following EO provisions when receiving CDBG assistance:

- Section 109, Title I of the Housing Act of 1974
- Title VI of the Civil Rights Act of 1964
- Section 504 of the Rehabilitation Act of 1973 (Handicapped Accessibility in all Federally assisted projects);
- Executive Order 11063, as amended
- Title VIII of the Civil Rights Act of 1968 as amended.
- The age discrimination act of 1975

Contractors and owners hiring contractors must comply with the following provisions:

- Executive Order 11246 regarding discrimination in employment
- Affirmative Action Provisions
- Section 503 of the Rehabilitation Act of 1973 (Handicapped Employment)
- Age Discrimination Act in Employment Act of 1967

- Department of Labor; Compliance Responsibilities for Equal Employment Opportunity, Federal Register, October 29, 1978;
- Department of Labor: Goals for Minority Participation in the Construction Industry, Federal Register, October 3, 1988;
- The Lead-Based paint Hazard Reduction Act of 1992 (Title X)
- OSHA regulations governing Lead-Based paint at 29 CFR 1926.62 and other OSHA regulations pertaining to housing rehabilitation and demolition activities
- EPA regulation at 40 CFR Part 61 governing Asbestos
- The Missouri Air Conservation law Rsmo.643, sections 225 through 250
- Missouri regulation 10 CFR 10.6.080, 10 CFR 6.240, 10 CFR 6.250
- Missouri Revised Statutes at 701.300 – 701.338 governing the licensing of lead professionals.
- HUD regulations at 24 CFR Part 35 governing Lead-Based Paint in Federally Assisted Housing
- Missouri State Work Practices Standards Governing Licensed Lead Professionals at 19 CSR 30-70.

### 3) **Lead Abatement Contracts**

In many cases, the same contractor that conducted the regular rehabilitation activities will be licensed to conduct lead abatement activities. Other contractors may do only lead abatement. Since the Department of Health and Senior Services regulates lead abatement contractors, we believe that the same provisions can be used as specified in number 2 above. The main difference is that a lead abatement contractor will need to submit the notification found in Exhibit 25 while rehabilitation contractors and those conducting interim controls do not. However, both must comply with OSHA standards and meet HUD's clearance testing criteria.

## **CONTRACT RISK MANAGEMENT (Best Practices)**

The best way to manage risk in a project is to run a well-organized program and provide penalties for poor contractor performance and incentives for good performance. In Chapter VIII, we discussed some of the risk management during the pre-contract phase of the project.

Hiring a good team that consist of a good inspector, risk assessor, and a team of qualified contractors is key to good risk control. The following Best Practice examples explain additional risk management measures during the contract phase of the project. These provisions include performance guarantees, interim inspection procedures, and change orders. As was the case during the pre-construction phase, the type of risk control measures that are used may come at an increased cost to the project.



**1) Performance Guarantees (Best Practices):**

*Retainage:* Retainage is an amount of money, usually 10%, withheld from the contractor's earned payment to help guarantee completion or short-term warranty repairs. Retainage is highly recommended as it helps an inspector assure that a quality rehab work is completed before final payment is made. Problems in a structure that occur immediately can be identified, before final payment is made. Some grantees hold back 10% of the contract amount for a period of time, e.g., 3 – 6 months, after a project is completed to assure that the contractor will return to complete any warranty work that may develop. Since time is money, this may cost the program a small amount, but will pay off in cases where good quality contractors are hard to find.

*Written Warranties:* Most grantees require that contractors warrant their work for one year after completion. Reputable contractors will honor this warranty. Warranties for more than a one-year period may cost more and there may be problems getting the contractor to return after an expended period of time. Material warranties are typically provided for roofing, appliances, windows, doors, etc. All of these warranties must be provided to the homeowner at the completion of each project.

*Letters of Credit:* The contractor provides letters of credit to an owner to guarantee their performance during the contract. In case the contractor goes out of business, performs poorly during the course of the project, or defaults the letter authorizes the owner to draw upon the letter of credit and place the funds in the owner's financial institution. They act like a check and may only to be cashed if the contractor defaults. Letters of credit are useful if the contractor has questionable credit or where the contractor is new. Typically, for small projects, the letter of credit is for 15 – 25% of the contract amount.

*Reasonable Liquidated Damages:* Liquidated damages are a predetermined and agreed to estimate of the actual damages resulting from a breach of contract. For example, \$350 for each day the contractor does not complete on time. The damages must be reasonable and related to the actual costs incurred by the parties to the contract as a result of the breach.

The provision should be included in the contract documents.

*100% payment and performance bonds:* This method is recommended for larger projects only and may raise the cost of a project by as much as 20%. Smaller jobs generally have a higher fee than larger jobs. This risk control method is not recommended for housing rehabilitation projects.

*Completed Operations Insurance for General Contractor:* This is insurance coverage required of the contractor to protect them from future claims based upon faulty construction practices that show up after the work is completed. This may raise the cost of a project by approximately 1%. This insurance can provide for more complete coverage than regular liability insurance.

*Inspection after Project Completion:* These inspections may be made to head off major problems during the warranty period. The inspections are a two-edged sword. The benefits are that they provide a good method of reporting if the rehabilitation project has really benefited the project owner. Major defects in workmanship, including defects in materials

that may be common to several houses can be readily identified and corrected. The disadvantages are the cost, the inability to close out projects in a timely manner, and the fact that many homeowners will see this as a way in which to correct problems that they themselves caused after the contract was completed. Such inspections work the best when there is ongoing monitoring of lead paint interim controls, or the grantee has decided to hold back 10% of the funds until this final inspection is completed.

## 2) **Pre-Construction Phase Best Practices**

*Preconstruction Conference:* Outside of assembling a qualified team of inspectors and contractors, holding a pre-construction conference is the most important aspect of controlling project risk. During the pre-construction conference, the one goal is to ensure that all parties have the same expectations concerning the outcome of the project. Outcomes topics discussed should include the following:

- Inform both the owner and the contractor that CDBG funds can only be used to pay for the work items in the contract specifications. Work not specified in the contract is the financial responsibility of those two parties.
- A detailed description of every item in the contract specifications;
- Work scheduling. When is each activity going to take place? What items are on special order? In what order will the work take place.
- Lead-Based Paint: The appropriate brochure should be provided. Containment areas should be identified. The lead paint procedure should be explained, including the clearance testing requirements. For interim controls, the education for expected on-going maintenance procedures should be provided.
- Temporary Relocation: For either lead-based paint or other rehabilitation work, will the work require the occupant to relocate, where, and for how long? Who will pay for the relocation?
- Warranties: Which items will carry a warranty? Who should the owner contact if workmanship is not what was expected?
- Project Budget: How much money is available from which sources? Which items in the contract is the owner paying for and which are CDBG funds paying for? Should change orders become necessary, who will pay for these?
- Paperwork: Who is authorized to sign paperwork, approve payment requests, and what forms will need to be signed to carry out the project?
- Sub-contractors: What subcontractors will be used?
- The owner should be informed of the limitations of the CDBG program after the project has been completed. The owner should sign a form, with the minutes of the meeting attached, similar to the form provided for in Exhibit 48.

*Notice to Proceed:* Having a notice to proceed requirement as part of the rehabilitation procedure provides for the opportunity for the grantee to ensure that all of the contractor's paperwork is in order before work is started on the project. The contractor's insurance should be up-to-date. If a letter of credit is required, this should be submitted. The lead-based paint project notification should be submitted (or re-notification as the case might be), and other necessary paperwork that was not provided as a condition of bidding on the project should also be submitted. Additionally, the notice to proceed allows the grantee to negotiate with all bidders for projects that come in over budget. The notice to proceed allows the grantee control over the number of houses a particular contractor is allowed to work on at one time. If the grantee has the policy of awarding only the lowest bid of three bids and one contractor receives more houses than they can handle at one time, the grantee has the option of awarding the bid and waiting to submit a notice to proceed at a later date. This would, of course, assume that the contractor is willing to stick to its bid for a period of time. If not, the project should be immediately re-bid. An example of a notice to proceed can be found in Exhibit 49.

### 3) **Construction Period Procedures Best Practices**

*Partial Release of Liens:* Grantees may require the contractor to provide lien waivers before completion of the project. We strongly recommend this. Some of the biggest problems we have had with projects have occurred where a contractor did not pay their material suppliers before the rehab work was completed. Lien waivers are required by CDBG upon the completion of each rehab. We highly recommend that you inform all material suppliers, subcontractors, and laborers to not sign lien waivers before they receive their final payment for a rehabilitation.

*Payment Options:* Grantees should consider the various options available for paying contractors. The method that will bring the least risk to the grantee is not paying the contractor until the project is 100% complete. This option, however, will cost money, since the contractor will, in most cases, have to provide construction financing for the project or spend dollars on the project that could be invested elsewhere. At the opposite end of the spectrum, grantees have, in some cases, provided five or more payments to contractors. This may not cost as much cash, but it provides the greatest risk to the grantee. The higher the number of payments, the less incentive the contractor has to complete the project in a timely manner. A higher number of payments also means more complexity in the grantees financial paperwork and greater administrative costs.

The option used depends partly upon the financial strength of your contractors. We recommend that the city pick one system and stick to it. Customizing payment schedules to the strength of the contractor invites inequities in the bidding process that will allow weaker contractors to receive a larger number of bids. Currently, there are not enough financially strong contractors throughout the state; therefore, many grantees use a procedure that provides for draws at a given percentage of the project. For example, drawdown may occur when the project is 50% complete, 90% complete, and 100% complete (final retainage paid).

Copies of forms that can be used for request for payment can be found in Exhibit 50.

Please note, these forms can be used as source documents for the contractor to meet financial reporting requirements. Note that the “Final Draw Request” form is for the last 10% of retainage and cannot be paid until all lien waivers are provided, local code inspections completed, and warranties provided to the homeowner.

*Detailed Job Scheduling:* Providing contractors with a more detailed schedule allows the grantee to provide assistance to contractors having trouble scheduling their work and responsibilities.

*Job Progress Meetings and follow-up reports:* Requiring contractors to attend job progress meetings on a regular basis is a good way to keep a project on schedule, particularly if the grantee is assisting in providing a job schedule to the contractor. These meetings can help alert the grantee to future problems that can be headed off before they become severe. For example, if materials ordered do not arrive on time, or if one of the contractor’s employees quit, appropriate changes can be made in the schedule and the homeowner can plan for some of the inconveniences. Although this seems to be needless, contractors are not all communicators and regular meetings can assist in solving problems for all.

*Material Inspections:* Inspectors should be on-site to ensure that materials installed meet the project specifications and are designed for the intended use. Inspectors who frequently inspect from their desks are at risk of having to require a contractor to reinstall materials, or not being able to inspect at all after materials are enclosed. For example, if an inspector is not on-site during a siding installation, they cannot be assured that the house wrap meets the contract specifications for some or all of the house.

#### 4) **Change Orders Best Practices**

Grantees that do not manage change orders well run the risk of losing control of their costs. Some contractors see a good opportunity to make a good profit on change orders after low-balling a bid to get the contract. Additionally, some contractors see the program as a way to take advantage of unsuspecting homeowners while conducting CDBG funded work. In order to avoid a large number of change orders and other unnecessary change orders, the following items are suggested:

*Unit pricing of change orders at Bid:* All bids should be based upon a quantity of material installed. Unit price dollar amounts should be provided for change orders when a project is bid. Change orders should specify additional quantities that are above and beyond the bid.

*Disallow items above DED HQS from the contract:* Unless agreed upon up-front, items desired by the homeowner, but not in the contract, should be disallowed during the contract period, even if paid for by the homeowner. The grantee is never assured that the homeowner will pay the contractor for work outside of the CDBG funded portion of the project. Non-payment by the homeowner could, at best, reflect poorly on the CDBG funded portion of the project, and at worst, lead to the bankruptcy of the contractor and the house not being completed for a long period of time.

*Fixed Overhead and Profit on Change Orders:* In order to reduce the value of change orders to the contractor, grantees can provide that change orders be provided at cost plus a fixed

amount for overhead and profit that is less than the amount that was normally charged in the initial contract.

*Cost Incentive:* Contractors that can bring their projects in ahead of schedule and under budget can receive a bonus amount agreed to up front for a reduction in administrative cost.

The amount must be tied to a decrease in administrative costs and costs to the occupant.

For example, if temporary relocation is involved, this could be significant for the homeowner. This could also assist the grantee in attracting additional contractors to CDBG jobs, vs. private jobs.

*Turn-key Contract:* In a turnkey contract, no change orders are allowed. The contractor is expected to complete the project, usually with performance style specifications, and then is paid 100% of the price at the end of the project. This ultimately reduces a major part of the risk to the grantee, but is very costly and can increase the price of the contract by 10 – 15% in most cases, therefore, we do not generally recommend this method. The method can be useful for very complex projects with extensive private financing involved.